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William B. Batzer
SCHLUMBERGER-DOLL RESEARCH
36 Old Quarry Road
Ridgefield, CT 06877-4108

In re Application of :
PAPANASTASIOU, Panos :
U.S. Application No.: 10/009,505 :
PCT No.: PCT/GB00/02471 :
Int. Filing Date: 22 June 2000 :
Priority Date: 23 June 1999 :
Attorney Docket No.: US57.0328 :
For: CAVITY STABILITY PREDICTION :
METHOD FOR WELLBORES :

DECISION

This is a decision on applicant's "Renewed Petition Under 37 CFR 1.181" filed on 12 February 2003. No fee is required.

BACKGROUND

On 10 December 2003, a decision dismissing applicant's petition to withdraw the holding of abandonment for failure to receive an office action was mailed. The decision noted that a statement that a search of the file jacket and docket records indicate that the Notification of Missing requirements was never received and a copy of counsel's docket records showing all applications for which a response was due on 06 April 2002 was needed for a grantable petition. Applicants were given two months to respond.

On 12 February 2004, applicant submitted the instant response.

DISCUSSION

As noted in the decision dated 10 December 2003, the time period to respond to the Form PCT/DO/EO/905 mailed 06 February 2002 including all extensions of time expired 06 September 2002. Applicant failed to respond during this period of time.

Accordingly, the above-captioned application is **ABANDONED**.

In the renewed petition, applicants claim that an updated Notification of Missing Requirements Under 35 U.S.C. 371 in the United States Designated/Elected Office (DO/EO/US) (Form PCT/DO/EO/905) was mailed 20 November 2002 resetting the period to respond. Since applicants had already submitted an executed declaration with the original petition on 11 November 2002, "[a]pplicant believes that holding of abandonment in this case is moot and must be withdrawn."

Applicant is mistaken.

37 CFR 1.135(a) specifies that an application becomes abandoned if applicant "fails to reply" to an office action within the fixed statutory period. This failure may result either from (A) failure to reply within the statutory period, or (B) insufficiency of reply. See § 711.02 MPEP. The above-captioned application was abandoned by operation of law for failure to timely respond to an Office action. The Form PCT/DO/EO/905 mailed on 13 November 2002 (in error) does not revive an abandoned application or reset the period to respond that has already expired.

Applicants must respond to the 10 December 2003 decision by submitting a copy of the docket records for the date upon which a response to the Form PCT/DO/EO/905 mailed 06 February 2002 was due (*i.e.*, 06 April 2002) and attesting that a search of the file jacket and docket records show that the Form PCT/DO/EO/905 mailed 06 February 2002 was not received.

CONCLUSION

Applicants' renewed petition is **DISMISSED** without prejudice.

The Form PCT/DO/EO/905 mailed 13 November 2002 in the above-captioned application is **VACATED**. The application remains **ABANDONED**.

If reconsideration on the merits of this petition is desired, a proper response must be filed within **TWO (2) MONTHS** from the mail date of this decision. Extensions of time are available under 37 CFR 1.136(a). If applicant is unable to demonstrate that the Form PCT/DO/EO/905 mailed 06 February 2002 was not received, then a petition to revive pursuant to 37 CFR 1.137(a) or (b) is appropriate.

Any further correspondence with respect to this matter deposited with the United States Postal Service should be addressed to the Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.



James Thomson
Attorney Advisor
Office of PCT Legal Administration

Tel.: (703) 308-645